

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

BRYAN KANU, : Case No. 1:19-cv-156  
Plaintiff, :  
v. : Judge Susan J. Dlott  
CITY OF CINCINNATI, *et al.*, :  
Defendants. : **ORDER ADOPTING REPORT AND  
RECOMMENDATION AND  
GRANTING DEFENDANTS'  
MOTIONS TO DISMISS**  
:

This matter is before the Court on the Magistrate Judge's Report and Recommendation (Doc. 113) that Defendants' Motions to Dismiss (Docs. 97, 99,<sup>1</sup> and 102) be granted. Plaintiff objected to the Report and Recommendation and reiterated his request to amend his Complaint (Doc. 120), and Defendants responded to Plaintiff's Objections (Docs. 121, 122, and 123). Plaintiff's request to amend his Complaint will be denied as futile.

Federal Rule of Civil Procedure 12(b)(6) allows a party to move to dismiss a complaint for "failure to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). To withstand a motion to dismiss, a complaint must comply with Rule 8(a), which requires "a short and plain statement of the claim showing that the pleader is entitled to relief." *Ashcroft v. Iqbal*, 556 U.S. 662, 677–78 (2009) (quoting Rule 8(a)).

A complaint must include sufficient facts to state a claim that is plausible on its face and not speculative. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555, 570 (2007). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the

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<sup>1</sup> The Court adopts the Magistrate Judge's recommendation that Defendant Michael Bachman's Motion for Judgment on the Pleadings (Doc. 99) be construed as a motion to dismiss.

reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678. Mere “labels and conclusions [or] a formulaic recitation of the elements of a cause of action” will not suffice. *Twombly*, 550 U.S. at 555. A district court examining the sufficiency of a complaint must accept well-pleaded facts as true, but not legal conclusions or legal conclusions couched as factual allegations. *Iqbal*, 556 U.S. at 678–79.

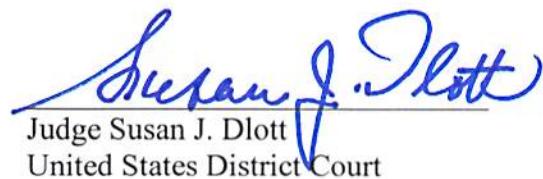
Where a motion to dismiss is referred to a magistrate judge for a report and recommendation, the District Court conducts a *de novo* review of any properly filed objections to the recommendation. Fed. R. Civ. P. 72(b)(3). The Court may “accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.” *Id.*

The Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court concludes that Plaintiff’s objections must be overruled. The Court adopts the Report and Recommendation (Doc. 113).

Accordingly, Defendants’ Motions to Dismiss (Docs. 97, 99, and 102) are hereby **GRANTED**. Plaintiff’s request to amend his Complaint is **DENIED** as futile, and this matter shall be terminated from the Court’s docket. The Court certifies pursuant to 28 U.S.C. 1915(a)(3) that an appeal of this Order adopting this Report and Recommendation would not be taken in good faith.

**IT IS SO ORDERED.**

Dated: July 19, 2021

  
Judge Susan J. Dlott  
United States District Court